

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS**

February 1, 2010 – 4:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
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Present: Carl Ford, Chairman
Chad Mitchell, Vice-Chairman
Jon Barber, Member
Raymond Coltrain, Member
Tina Hall, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Ford convened the meeting at 4:00 pm.

Commissioner Coltrain provided the Invocation and also led the Pledge of Allegiance.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the minutes of the January 19, 2010 Commission Meeting passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

There were no additions to the agenda.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the agenda passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Barber moved approval of the Consent Agenda. The motion was seconded by Commissioner Mitchell and passed unanimously.

The Consent Agenda consisted of the following:

- A. Set Public Hearing for February 15, 2010 for FY 2010-11 HOME Action Plan
- B. Approval to Accept Funds for Strengthening Families Grant Proposal and Approval to Partner with AFEC for Implementation of Program

2. PUBLIC COMMENT PERIOD

Chairman Ford opened the Public Comment Period to entertain comments from any citizens wishing to address the Board.

With no one wishing to address the Board, Chairman Ford closed the Public Comment Period.

3. PUBLIC HEARING FOR PROPOSED TEXT AMENDMENTS TO ROWAN COUNTY CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, ARTICLE II PERSONNEL

Darlene Boling, Human Resources Director, said the proposed text amendments were due to the reorganization of the Department of Administration and Human Resources, as well as to correspond with the County's current policies and procedures of operation.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed text amendments to the Rowan County Code of Ordinances, Chapter 2, Administration, Article II Personnel.

With no one wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Hall questioned the proposed strikethroughs in Section 2-31 regarding the terms "character" and "ability to meet the public". Ms. Boling said the job descriptions list the knowledge, skills, abilities and physical requirements of the position. Ms. Boling explained that there was not a method for measuring the other items listed. Ms. Boling said she had deleted/inserted the text in question in order to be in compliance with equal opportunity laws.

Commissioner Hall said the ability to meet the public was an important skill and that she felt comfortable leaving that particular text in the ordinance, along with the term "character". Ms. Boling said she had chosen to delete the text due to it being subjective in an interview.

Commissioner Hall felt that the County should ensure the hiring of employees of good character and they should have the ability to meet the public. Commissioner Hall put her suggestion in the form of a motion. The motion was seconded by Commissioner Barber.

Commissioner Mitchell asked Ms. Boling if she was comfortable to leave the text and whether the text opened the County up to liability issues. Ms. Boling responded that she had been comfortable in removing the text due to the Equal Employment Opportunity Commission (EEOC) but said she was uncertain as to the liability issue.

Commissioner Coltrain said it was unfortunate that individual rights have put limitations on questions that can be asked in the interview process. Commissioner Coltrain said additional information could often be obtained in checking an applicant's references.

Commissioner Mitchell said he did not have a problem leaving the text if there were no legal issues with doing so.

In response to comments from County Attorney Jay Dees, Ms. Boling said the county performed reference and criminal background checks. Ms. Boling said a driving history was also checked for employees who would drive for the county.

Mr. Dees said he did not feel there would be legal challenges in leaving the text. Mr. Dees said all jobs did not require employees to meet the public and therefore the criteria would not be a necessary component of an interview.

Commissioner Hall suggested adding text to state, "where applicable" and Mr. Dees agreed the suggestion was appropriate.

Upon being put to a vote, the motion on the floor passed unanimously with the minor changes.

Commissioner Hall questioned the text in Division 2, Section 2-48, item #7. Ms. Boling responded that the process for the Personnel Commission was not a legal proceeding but rather a grievance procedure.

Commissioner Hall asked Ms. Boling to review the changes in Division 4, Section 2-81, item #1. Ms. Boling explained that the salary and grading step table had changed regarding promotions. Ms. Boling said the standard operating procedure was for the employee to receive a minimum of 5% for a promotion.

Commissioner Hall questioned Ms. Boling regarding the changes in Division 5, Section 2-101(a). Ms. Boling said it used to be a standard operating procedure for law enforcement to serve a 12-month probationary period of employment; however, at some time it was changed to six months and she felt the change was to be in conjunction with the rest of county government.

Chairman Ford referred to Division 6 concerning conditions of employment, specifically Section 2-118 (c) and asked if the Board should include language that no county commissioner should apply for a job.

Ms. Boling asked if there was a section in the Rowan County Code of Ordinances where such text would be more applicable since the personnel ordinance before the Board pertained mostly to employees.

Commissioner Mitchell said commissioners did not typically fall under most of the policies in the personnel ordinance but he agreed that text as questioned by the Chairman would be appropriate somewhere in the Code of Ordinances.

Commissioner Coltrain commented that the Board had discussed the issue before.

Commissioner Mitchell said he would be receptive for Ms. Boling to propose a change to the ordinance that would apply to the Board. Ms. Boling responded that she would review the matter.

Mr. Dees said the committee was looking into the reverse concept of employees running for county commission. Mr. Dees said this would be an appropriate place for such text to be included. Mr. Dees felt the Board would need a stand-alone policy in regards to commissioners applying for jobs as county employees.

Chairman Ford said the Board would have to consider the Sheriff's Department and Register of Deeds so as not to prohibit those individuals from running for office.

Commissioner Mitchell said he was okay with this policy as it was written and he would look forward to a proposed policy for county commissioners.

Mr. Dees suggested striking the whole provision and brining it back as a revision at a later date. Mr. Dees said the policy currently stated any employee may file for any position. Mr. Dees felt it might be better to state no employee shall run for elected office that would violate state or federal elections law.

Commissioner Coltrain said it made him nervous to limit an individual's rights to run for a political office. Commissioner Coltrain said he would accept the language as suggested by Mr. Dees regarding an employee running for office in accordance to all federal or state elections laws.

Mr. Dees said he thought it was a debate the Board intended to have as there was currently a standing committee reviewing the issue. Mr. Dees suggested striking the provision and replacing it with "no employee shall run for elected office in violation of state or federal laws and regulations, or any local ordinances contained herein". Mr. Dees said if the Board had the local ordinance, the text would not have to be changed later after the committee reported.

Commissioner Mitchell moved “to amend Section 2-118 (c) to what our Attorney just said”. The motion was seconded by Commissioner Hall and passed unanimously.

In response to a query from Commissioner Hall regarding Division 7, Section 2-132 (3), Ms. Boling explained that the current policy was to allow vacation units to be taken in increments of fifteen minutes. Ms. Boling said the current policy had been in place for many years and the proposed text was to make the ordinance consistent with the current policy.

Chairman Ford asked for clarification regarding floating holidays in Section 2-134. Ms. Boling explained that the EMS or Sheriff’s department could not always take their holiday on the actual day; therefore, the time went into a holiday bank. Ms. Boling said the employees still receive 8 hours and she compared it to a vacation accrual, which can be taken at a later date.

Commissioner Hall asked Ms. Boling to explain the strikethrough in Section 2-136 concerning replacement during leave. Ms. Boling said due to the Family Medical Leave Act (FMLA), the County had to automatically reinstate someone; however, depending on the type of leave, there were no legal issues or laws that would require them to be put back into the same position, or a like position. Ms. Boling said the existing text was stricken since it had provisions that were not required and might not be possible.

Commissioner Mitchell questioned the general practice for someone returning when the County had already filled the position. Ms. Boling explained that the County normally did not have individuals returning from leave to take a lower level position. Ms. Boling said the employee would either not return or the County would try to hold the position open as long as possible. Ms. Boling said there are times, depending on the length of the leave, when it was impossible to keep the position open, such as in the case of a paramedic. Ms. Boling said the County could hire a temporary paramedic; however, the retirement system only allowed a temporary to work up to 999 hours. Ms. Boling said the returning employee would be eligible to be rehired. Ms. Boling said the employee could apply like any other applicant and would have a good chance of being rehired if there were no performance issues.

Commissioner Hall said one line that caught her attention was the last line stating that employees on leave would have priority for vacancies. Ms. Boling said she did not understand the wording since there was no vacancy if the employee was on leave.

Chairman Ford noted the policy did not apply to military leave and Ms. Boling said military employees had re-employment rights within a certain amount of time.

Commissioner Hall questioned Section 2-137. Ms. Boling said the stricken text in regards to adoption was automatically covered under FMLA and was addressed in another section.

Chairman Ford referred to Section 2-137.6 and Ms. Boling said the text was added as an extension of the FMLA that included service members.

Commissioner Hall questioned a change in Section 2-155 regarding reduction in force and recall. Ms. Boling explained that at some point, the standard operating procedure was changed and the proposed text was to correspond with existing procedures.

In response to a query from Commissioner Hall, Ms. Boling explained the proposed change under 2-199, item #3 concerning the pay plan. Commissioner Mitchell added that the change was previously made by the Personnel Board and matched Section 2-78.

Commissioner Mitchell moved approval of the ordinance as amended. The motion was seconded by Commissioner Coltrain and passed unanimously.

4. DISCUSSION REGARDING JAIL SITE SELECTION

County Manager Gary Page said he had been prepared to discuss the information in the agenda packets regarding potential sites for a new jail annex. Mr. Page said he had tried to work out an arrangement for the exchange of county-owned property for property owned by John Leatherman. Mr. Page explained that the trade would have provided the cheapest option and also provided for the perfect jail site.

Mr. Page reported that Mr. Leatherman had contacted him on Friday to advise that he was no longer interested in trading property and that he preferred to sell the 30-acre tract rather than the 24-acre site that had been discussed.

Mr. Page said with the trade off the table, Mr. Leatherman's site was no longer the best option. Mr. Page said the County would now have to purchase property for the jail annex.

Mr. Page said the 30-acre tract offered by Mr. Leatherman was bigger; however, it had watershed issues and a water line would have to be extended. Mr. Page said he had not had time to evaluate the costs for the 30-acre tract.

Mr. Page said the options at this time were:

1. Evaluate the 30-acre tract offered
2. Condemn the 24-acre site previously discussed
3. Move forward with negotiations with Mr. Clark, property owner of a 29-acre site off Grace Church Road

4. Advertise for two (2) weeks extending the previous criteria that required 25-acres, proper zoning, access to water and sewer and be within three (3) miles
5. Reconsider county-owned property across from fairgrounds

Mr. Page said he had hoped to have the site selected in January and in pushing the decision back to March 1, 2010 the project would be four (4) to six (6) weeks behind schedule.

In response to a query from Commissioner Mitchell, Mr. Page said it costs the County approximately \$50,000 for every month the County did not proceed with the jail annex.

Commissioner Mitchell inquired if the Sheriff's Department had been contacted to determine their ability to get prisoners to and from the new location. Chief Deputy Kevin Auten was in the audience and said the Sheriff's Department had no problem with their ability to transport prisoners to and from the second proposed location.

Commissioner Mitchell moved to begin negotiations with Mr. Clark. The motion was seconded by Commissioner Barber.

Commissioner Coltrain felt the County would be open to liability issues if it did not provide the public with the opportunity to offer property beyond the original three-mile range as recommended by the Jail Annex Committee. Commissioner Coltrain said he could not support the motion.

Commissioner Coltrain said the Manager had provided the fairgrounds property as an option and he reminded the Board that the Fair Association had approached the Board about purchasing the property. Commissioner Coltrain said the Board had given its word to contain the cost of the jail annex to approximately \$6 million and to use county property.

Commissioner Coltrain said the Board needed to explore other options to minimize the amount of funds needed to meet current and future needs. Commissioner Coltrain said he preferred to re-advertise to allow individuals with property between the three (3) mile and six (6) mile range to offer their property as a proposed jail annex site. Commissioner Coltrain said he would also like to discuss the Fair Association's offer. Commissioner Coltrain said the Board should do everything possible to uphold its position to use county-owned property and if the Board had to change its position, it should be well founded by facts.

Commissioner Mitchell said between the two (2) options, Site A, Mr. Leatherman's site, and Site B, Mr. Clark's site, Site B was \$175,000 cheaper. Commissioner Mitchell said based on conversations previously in the day, the

offer stood at \$175,000 more for Site A, when it was previously the cheapest site. Commissioner Mitchell said building downtown was at least a \$30-40 million proposition and he pointed out the City of Concord had several problems with their downtown facility.

Commissioner Mitchell said out of the two (2) options, Site B was \$175,000 cheaper with no waterline costs, plus five (5) additional acres. Commissioner Mitchell said he was not against negotiations with the Fair Association; however he did not want to tie the two (2) decisions together as Commissioner Coltrain suggested.

Commissioner Mitchell said he believed Site B was the cheapest option now and would continue to be. Commissioner Mitchell said he would agree to add to his motion allowing a period of time for individuals with properties within a six (6) mile radius to contact the Manager before moving forward. Commissioner Mitchell said the Manager could use his discretion on new sites proposed before moving on with Site B.

Mr. Page said Site B was zoned properly, had additional acreage, a water tank and a 12' waterline. Mr. Page said the negative aspect would be the need to put in a sewer line; however, the utility costs were similar to the Henderson Grove Church Road site. In regards to Site B, Mr. Page said the surrounding property owners already lived adjacent to the state's correctional center.

In response to an inquiry from Commissioner Hall, Mr. Page said the site would be able to accommodate extensions up to 640 beds and would meet the needs for the next twenty (20) to twenty-five (25) years.

Commissioner Coltrain inquired if there were any minimum statutory requirements for a notice regarding changing the specs for the site. Mr. Page said the criteria was set forth by the Jail Annex Committee in an effort to narrow down possible sites. Mr. Page said there were no formal, legal notice requirements. Mr. Page said Commissioner Mitchell had suggested he move forward with Site B unless re-advertising presented a better site.

Commissioner Mitchell said he was agreeable to re-advertising as long as the Board gave formal approval that at the end of the week the Manager could move forward with Site B.

Commissioner Coltrain asked if Commissioner Mitchell was suggesting giving the County Manager approval to begin the environmental study and appraisal and Commissioner Mitchell responded yes.

County Attorney Jay Dees said it was a practical matter to re-advertise for possible sites and not a legal matter.

Chairman Ford said he agreed with Commissioner Coltrain to use county property if at all possible; however, he thought the option had been exhausted.

Upon being put to a vote the motion passed unanimously.

5. CONSIDER APPROVAL OF BUDGET AMENDMENTS

Finance Director Leslie Heidrick presented the following budget amendments for the Board's consideration:

- Health – To increase original budget per Smart Start Health Link Grant for FY 2009-10 - \$973
- Finance – To budget revenues and expenditures associated with third party reviews of wireless facility applications - \$10,000
- Recognize \$1,000 donation check and budget to Explorer Program Expense Account
- Social Services – To budget donations received for the 1 Church 1 Child Program - \$785

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the budget amendments as presented passed unanimously.

6. CONSIDER APPROVAL OF BOARD APPOINTMENTS **JUVENILE CRIME PREVENTION COUNCIL (JCPC)**

Katelyn Horning completed her allowable number of terms and at this time there are no applicants to fill her vacancy.

Chairman Ford encouraged citizens to apply for board vacancies.

ENOCHVILLE VOLUNTEER FIRE DEPARTMENT RELIEF FUND BOARD OF TRUSTEES

The Enochville VFD requested the appointment of Albert Miller to fill the remainder of the term for a deceased trustee member. The term would expire December 31, 2010.

Commissioner Mitchell nominated Albert Miller and the nomination passed unanimously.

PUBLIC LIBRARY BOARD OF TRUSTEES

Midgie Dial submitted an application for reappointment for a term of three (3) years beginning February 1, 2010 and expiring January 31, 2013.

Commissioner Barber nominated Midgie Dial and the nomination carried unanimously.

SOUTH SALISBURY VOLUNTEER FIRE DEPARTMENT FIRE COMMISSIONERS

South Salisbury VFD requested the appointment of three (3) fire commissioners. The following applications were submitted for consideration: Samuel Charles Guessford, Wayne Taylor, William Webb (reappointment), Michelle Orbison and Robert Boles (reappointment)

The terms would be for two (2) years beginning January 1, 2010 and expiring December 31, 2011.

Commissioner Hall nominated Wayne Taylor.

Commissioner Mitchell nominated William Webb and Robert Boles for reappointment.

Upon being put to a vote, the nominations carried unanimously.

ZONING BOARD OF ADJUSTMENT

Glenn Shimmel has submitted an application for reappointment. The term would be for three (3) years beginning March 1, 2010 and expiring February 28, 2013.

Commissioner Mitchell nominated Glenn Shimmel for reappointment. The nomination passed unanimously.

7. CLOSED SESSION: PERSONNEL MATTER

Commissioner Mitchell moved at 5:00 pm for the Board to enter Closed Session pursuant to North Carolina General Statute § 143-318.11(a)(6) for a personnel matter. The motion was seconded by Commissioner Barber and passed unanimously.

Chairman Ford called for a recess and the Board officially entered Closed Session at 5:06 pm.

The Board returned to Open Session at 5:12 pm. No action was taken.

8. ADJOURNMENT

There being no further business to come before the Board, Commissioner Coltrain moved to adjourn at 5:12 pm. The motion was seconded by Commissioner Mitchell and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CCC
Clerk to the Board